

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: June 2, 2017

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KELLY PRICE,

Plaintiff,

v.

THE CITY OF NEW YORK, ROSE PIERRE-
LOUIS, SELVENA BROOKS, INSPECTOR
OLUFUNMILO F. OBE, DETECTIVE LINDA
SIMMONS, OFFICER JOHN STAINES,
OFFICER ISELAINE GUICHARDO
HERMENE GILDO CRUZ, LT. NICHOLAS
CORRADO, LIEUTENANT RAYMOND
DEJESUS, OFFICER EMMET, SERGEANT
SHEVTIZ, MTA OFFICER JOHN DOE, and
MTA OFFICER JANE DOE,

Defendants. -----X

15 Civ. 5871 (KPF)

OPINION AND ORDER

KATHERINE POLK FAILLA, District Judge:

Plaintiff Kelly Price brings this *pro se* action under 42 U.S.C. § 1983, alleging violations of her constitutional rights. As relevant here, Plaintiff sues two MTA officers, MTA Officer John Doe and MTA Officer Jane Doe, on the basis of an incident that allegedly occurred on November 17, 2016.

By Order dated September 29, 2015, the Court granted Plaintiff's request to proceed without prepayment of fees, that is, *in forma pauperis*. To allow Plaintiff to effect service on MTA Officer John Doe and MTA Officer Jane Doe through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for the MTA. The service address for the MTA is 2 Broadway, New York, NY 10004.

The Clerk of Court is instructed to issue a summons and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon these Defendant.

Plaintiff must effect service within 90 days of the date the summons is issued. It is Plaintiff's responsibility to inquire of the Marshals Service as to whether service has been made and, if necessary, to request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). It is also Plaintiff's obligation to promptly submit a written notification to the Court if Plaintiff's address changes, and the Court may dismiss the action if Plaintiff fails to do so.

A. Obtaining Additional Information Concerning Jane Doe and John Doe Defendants

Under *Valentin v. Dinkins*, a *pro se* litigant is entitled to assistance from the district court in identifying a defendant. 121 F.3d 72, 76 (2d Cir. 1997). In the Fourth Amended Complaint, Plaintiff supplies sufficient information to permit the MTA to identify the John and Jane Doe MTA Officers who detained Plaintiff on November 17, 2016 at Penn Station, and transported her to St. Vincent's Hospital.

It is therefore ordered that the MTA shall ascertain the identities of the Jane Doe and John Doe Defendants whom Plaintiff seeks to sue here and the addresses where these Defendants may be served. The MTA shall provide this information to Plaintiff and the Court within 60 days of the date of this Order. The Court will then deem the Complaint amended to name the John and Jane Doe Defendants.

CONCLUSION

The Clerk of Court is directed to mail a copy of this Order and the complaint to the MTA at 2 Broadway, New York, NY 10004. The Clerk of Court is further instructed to complete the USM-285 forms with the address for the MTA and deliver all documents necessary to effect service to the U.S. Marshals Service.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

This Order does not affect the schedule for the non-MTA Defendants' response to the Fourth Amended Complaint. That schedule remains in place. Their response, be it answer or motion to dismiss, must be filed on or before **June 26, 2017**. If the response is a motion to dismiss, the non-MTA Defendants should include copies of any case cited in their papers, be it reported or unreported, in their mailing to Plaintiff. And if it is a motion to dismiss, Plaintiff's opposition will be due on or before **August 11, 2017**. The non-MTA Defendants' reply papers will be due on or before **August 31, 2017**; here, again, the non-MTA Defendants should include copies of any case cited in their papers.

As it previously stated, the Court has built in extra time into this schedule to account for delays in mailing and potential vacations. Accordingly, absent compelling circumstances, the Court will not extend these dates

SO ORDERED.

Dated: June 2, 2017
New York, New York



KATHERINE POLK FAILLA
United States District Judge

A copy of this Order was mailed by Chambers to:

Kelly Price
534 W. 187th Street
Apt. # 7
New York, NY 10033